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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,851	06/27/2003	Paul E. Amundsen	0100.2061-003	8740

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EXAMINER

DOERRLER, WILLIAM CHARLES

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,851

Applicant(s)

AMUNDSEN ET AL.

Examiner

William C Doerfler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-61 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-15,17-19,21-32,34-39,62,63,65-67,69-72,74-76,78-85 and 87-89 is/are rejected.
- 7) ☒ Claim(s) 3,7,16,20,33,64,68,73,77 and 86 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4-8-2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claims 19 and 40 are objected to because of the following informalities: In claim 19, "directing the exhaust open includes" is confusing". In claim 40, "a temperature sensors" is confusing. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4-6,8,10-15,17-19,21,23-32,34 and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamartino et al.

Yamartino et al discloses a cryopump which directs purge gas into the cryopump when an unsafe condition is detected. Column 4 lines 9-14 state that the purge gas is applied until a safe condition is determined. Column 5 lines 25-27 state that the purge gas valve is normally closed. Line 50 of column 5 states that during purge, the gas is released through exhaust valve 27. A control for the valve to open during purging is considered inherent since purging cannot occur without exhausting the gas.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 9,22,35,62,63,65-67,69-72,74-76,78-85 and 87-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamartino et al in view of Gaudet et al '316. Yamartino et al discloses applicants' basic inventive concept, a cryopump with means to control a purge gas when an unsafe condition is determined, substantially as claimed with the exception of determining after a power failure the prior state of the cryopump and returning to a regeneration state if a regeneration was disrupted by the power failure and if a regeneration is still appropriate. Gaudet '316 shows this feature to be old in the column 13 line 40-column 14 line 62. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Gaudet et al to modify the cryopump of Yamartino et al by determining after a power failure the state of the cryopump prior to the failure and determining if a return to a regeneration state is appropriate to ensure proper functioning and safety of the device following a power disturbance.

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Allowable Subject Matter

Claims 3,7,16,20,33,64,68,73,77 and 86 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 40-61 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gray et al show a gas system with means to control gas flow in the event of a sensor malfunction. Okumura et al, both Haefner et al patents, Buonpane et al, Weeks et al, Morishita et al, Andeen et al and Gaudet et al '093 show control systems for cryopumps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C Doerrler whose telephone number is (703) 308-0696. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William C Doerrler
Primary Examiner
Art Unit 3744

WCD